



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/606,253

06/25/2003

Martin Crisp

200-007048-US(C02)

4490

7590

04/06/2006

Clarence A. Green
Perman & Green, LLP
425 Post Road
Fairfield, CT 06430

EXAMINER

VUONG, QUOCHIE B

ART UNIT

PAPER NUMBER

2618

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,253

Applicant(s)

CRISP, MARTIN

Examiner

Quochien B. Vuong

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-18 and 31-39 is/are rejected.
- 7) ☒ Claim(s) 19-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>08/29/05, 03/03/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action in response to Applicant's response filed on 01/13/2006. Claims 11-39 are now pending in the present application.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 08/29/05 and 03/03/06 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 31-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 31-39 recites the limitation "the second body portion" in claim 31, line 4. There is insufficient antecedent basis for this limitation in the claim.

It is noted that the portion of the claim starts from "the second body portion ..." in claim 31, line 4 to line 10 should be after the introduction of "a second body portion" lines 12 to maybe line 18.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Constien (DE 4307164 A1)

Regarding claim 11, Constien (figure 1) discloses a portable telephone comprising: first body portion (1) comprising first and second grooves, a keypad (3), and a second body portion (8) comprising first and second runners, the first and second runners positioned in the first and second grooves respectively allow the second body portion to slide relative the first body portion (figures 1 and 2) between a closed position in which the keypad concealed (figure 3) and an open position in which the keypad is exposed (figure 4), the first body comprising a first detent located in the first groove (figure 5A), the second body portion further comprising a first recess the first runner to hold the second body portion relative to first body portion when the first recess coincides the first detent (column 3, lines 4-10).

Regarding claim 12, Constien discloses the first recess is positioned in the first runner to coincide with the first detent when the second body portion is in the closed position (column 3, lines 8-10).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 13, 15, 16 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Constien in view of Becker (DE 3836406 A1)

Regarding claim 13, Constien discloses the portable telephone of claim 11 above. Constien does not disclose the first recess is positioned in the first runner to coincide with the first detent when the second body portion is in the open position. However, Becker (figure 1) disclose a second body portion is secured in the closed (B) or open position (A) (see abstract and figure 1). Therefore, it would have been obvious to adapt the teaching of Becker to the portable telephone of Constien for securing the second body portion is in the open or closed position.

Regarding claims 15 and 16, Constien discloses the portable telephone of claim 12 above. Constien does not disclose wherein the second body portion further comprises a second recess in the first runner to hold the second body portion relative to the first body portion when the second recess coincides with the first detent in the open position. However, Becker (figure 1) disclose a second body portion is secured in the closed (B) or open position (A) (see abstract and figure 1). Therefore, it would have been obvious to adapt the teaching of Becker to the portable telephone of Constien so that the second body portion further comprises a second recess in the first runner to

Art Unit: 2618

hold the second body portion relative to the first body portion when the second recess coincides with the first detent in the open position for securing the second body portion is in the open or closed position.

Regarding claim 31, Constien (figure 1) discloses a portable telephone comprising: first body portion (1) comprising first and second grooves, a keypad (3), and a second body portion (8) comprising first and second runners, the first and second runners positioned in the first and second grooves respectively allow the second body portion to slide relative the first body portion (figures 1 and 2) between a closed position in which the keypad concealed (figure 3) and an open position in which the keypad is exposed (figure 4), the first body comprising a first detent located in the first groove (figure 5A), the second body portion further comprising a first recess the first runner to hold the second body portion relative to first body portion when the first recess coincides the first detent (column 3, lines 4-10); wherein the first recess is positioned in the first runner to coincide with the first detent when the second body portion is in the closed position (column 3, lines 8-10). Constien does not disclose wherein the second body portion further comprises a second recess in the first runner to hold the second body portion relative to the first body portion when the second recess coincides with the first detent in the open position. However, Becker (figure 1) disclose a second body portion is secured in the closed (B) or open position (A) (see abstract and figure 1). Therefore, it would have been obvious to adapt the teaching of Becker to the portable telephone of Constien so that the second body portion further comprises a second recess in the first runner to hold the second body portion relative to the first body portion

Art Unit: 2618

when the second recess coincides with the first detent in the open position for securing the second body portion is in the open or closed position.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Constien in view of Mackenzie et al. (US 4,272,655).

Regarding claim 14, Constien discloses the portable telephone of claim 11 above. Constien does not disclose wherein the first recess is positioned in the first runner to coincide with the first detent when the second body portion is in a position intermediate the open and closed position. However Mackenzie et al. disclose a portable telephone which can operate when the second body portion is in an intermediate position (figures 8A-8B; column 9, line 62- column 10, line 6). Therefore, it would have been obvious to adapt the teaching of Mackenzie et al. to the portable telephone of Constien so that the first recess is positioned in the first runner to coincide with the first detent when the second body portion is in a position intermediate the open and closed position for holding the second body in the intermediate position for ease of the user when using the telephone.

9. Claims 17, 18, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Constien in view of Becker and further in view of Mackenzie et al.

Regarding claims 17, 18, 32 and 33, Constien and Becker disclose the portable telephone of claims 15 and 31 above, respectively. Constien and Becker do not disclose wherein the second body portion further comprises a third recess in the first

runner to hold the second body portion relative to the first body portion when the second recess coincides with the first detent in the intermediate position. However Mackenzie et al. disclose a portable telephone which can operate when the second body portion is in an intermediate position (figures 8A-8B; column 9, line 62- column 10, line 6).

Therefore, it would have been obvious to adapt the teaching of Mackenzie et al. to the portable telephone of Constien and Becker so that the third recess is positioned in the first runner to coincide with the first detent when the second body portion is in a position intermediate the open and closed position for holding the second body in the intermediate position for ease of the user when using the telephone.

Double Patenting

10. Claims 25-30 and 31 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 19-24 and 16, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

11. Claims 19-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims as indicated in the previous Office action mailed 07/13/2005.

Art Unit: 2618

12. Claims 34-39 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Regarding claim 34, Constien, Becker, and Mackenzie et al. disclose the portable telephone of claim 33 above. However, Constien, Becker, and Mackenzie et al. fail to teach wherein the first body portion further comprises a second detent located in the second groove, and the second body portion further comprises a fourth recess in the second runner to hold the second body portion relative to the first body portion when the fourth recess coincides with the second detent.

Response to Arguments

13. Applicant's arguments with respect to claims 11-18 have been considered but are moot in view of the new ground(s) of rejection.

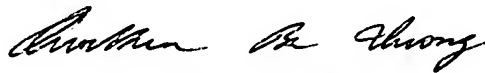
Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quochien B. Vuong whose telephone number is (571) 272-7902. The examiner can normally be reached on M-F 9:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



QUOCHIE B. VUONG
PRIMARY EXAMINER

Quochien B. Vuong
Mar. 31, 2006.